

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA  
SOUTHWESTERN DIVISION**

ACUITY,	)	
	)	
Plaintiff,	)	<b>ORDER</b>
	)	
vs.	)	
	)	
North Central Video, LLLP, d/b/a	)	
Blockbuster Video; Dominic James	)	
Simnioniw; and Lyle Edwards Hilderman,	)	
and Heather Thomas,	)	
	)	Case No. 1:05-cv-010
Defendants.	)	

---

The court conducted a status conference in the above-entitled action on May 3, 2007. During the status conference, the court indicated it had concluded that there is no coverage under the Acuity policy for Simnioniw and Hilderman, but that the policy is ambiguous in terms of the application of the employment-related practice exclusion to NCV. Based on these determinations, the court **ORDERS** that the parties shall have until Friday, May 4, 2007, to indicate what relevant extrinsic evidence they would offer at trial, if any, that would be material to the ambiguity with respect to the application of the employment-related practices exclusion. The court further orders that the parties shall have until Friday, May 11, 2007, to file objections to any extrinsic evidence that may be proposed in terms of its admissibility. Given that there may be no need for trial on this matter, the court **ORDERS** that the trial scheduled for May 22, 2007, is hereby cancelled and that the trial will be rescheduled in the event a trial is necessary.

Dated this 3<sup>rd</sup> day of May, 2007.

/s/ Charles S. Miller, Jr.  
Charles S. Miller, Jr.  
United States Magistrate Judge